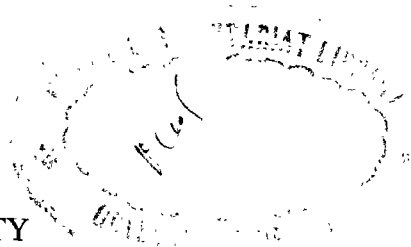




भारत का राजपत्र The Gazette of India

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PART II—Section 2
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on 31st July, 2000

BILL No. 123 OF 2000

A Bill further to amend the State Financial Corporations Act, 1951.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. This Act may be called the State Financial Corporations (Amendment) Act, 2000.

Short title.

2. In section 2 of the State Financial Corporations Act, 1951 (hereinafter referred to as the principal Act),—

Amendment
of section 2.

(a) in clause (c)—

(i) for sub-clauses (x) to (xiii), the following sub-clauses shall be substituted, namely:—

- “(x) providing weigh bridge facilities;
- (xi) providing engineering, technical, financial, management, marketing or other services or facilities for industry;
- (xii) providing medical, health or other allied services;
- (xiii) providing software or hardware services relating to information technology, telecommunications or electronics including satellite linkage and audio or visual cable communication;
- (xiv) setting up or development of tourism related facilities including amusement parks, convention centres, restaurants, travel and transport (including those at airports), tourist service agencies and guidance and counselling services to the tourists;
- (xv) construction;
- (xvi) development, maintenance and construction of roads;
- (xvii) providing commercial complex facilities and community centres including conference halls;
- (xviii) floriculture;
- (xix) tissue culture, fish culture, poultry farming, breeding and hatcheries;
- (xx) service industry, such as altering, ornamenting, polishing, finishing, oiling, washing, cleaning or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal;
- (xxi) research and development of any concept, technology, design, process or product whether in relation to any of the matters aforesaid, including any activities approved by the Small Industries Bank; or
- (xxii) such other activity as may be approved by the Small Industries Bank;”;

(ii) in *Explanation 2*, for the words “Development Bank” in both the places wherever they occur, the words “Small Industries Bank” shall be substituted;

(b) after clause (d), the following clause shall be inserted, namely:—

“(da) the expression “public sector bank” means the State Bank of India constituted under the State Bank of India Act, 1955, a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.”

23 of 1955.

38 of 1959.

5 of 1970.

40 of 1980.

(c) clauses (ff) and (fff) shall be re-lettered as clauses (fb) and (fc) thereof and before clause (fb) as so re-lettered, the following clause shall be inserted, namely:—

“(fa) “Small Industries Bank” means the Small Industries Development Bank of India established under sub-section (1) of section 3 of the Small Industries Development Bank of India Act, 1989;”

39 of 1989.

Amendment of
section 3A.

3. In section 3A of the principal Act, in sub-section (1), for the words “Development Bank”, the words “Small Industries Bank” shall be substituted.

Amendment of
section 4.

4. In section 4 of the principal Act,—

(a) for sub-sections (1), (2) and (3), the following sub-sections shall be substituted, namely:—

“(1) The authorised capital of the Financial Corporation shall be such sum as may be fixed by the State Government in this behalf, but it shall not, be less than fifty lakhs of rupees, or exceed five hundred crores of rupees:

Provided that the State Government may, on the recommendation of the Small Industries Bank, by notification in the Official Gazette, increase the authorised capital up to one thousand crores of rupees.

(2) Subject to the provisions of section 4D, the authorised capital shall be divided into such number of fully paid-up shares of the same face value and such number of fully paid-up redeemable preference shares of the same face value and shall be issued to the parties mentioned in clauses (a), (b) and (c) of sub-section (3) and in the case of parties referred to in clause (d) of that sub-section, such shares shall be issued at such times and in such manner as the State Government may, by notification in the Official Gazette, determine.

(3) Subject to the approval of the State Government and the Small Industries Bank, the Board shall determine the number of shares which may, respectively, be distributed among—

(a) the State Government;

(b) the Small Industries Bank;

(c) public sector banks, the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956, other insurance companies owned or controlled by the Central Government, other institutions owned or controlled by the Central Government or the State Government, as the case may be; and

(d) parties other than those referred to in clause (a), or clause (b) or clause (c):

Provided that the number of shares which may be allocated to parties referred to in clause (d) shall in no case exceed forty-nine per cent. of the total number of issued equity shares:

Provided further that no increase in the issued equity capital shall be made in such a manner that the parties referred to in clause (a) or clause (b) or clause (c) hold in aggregate, at any time less than fifty-one per cent. of the issued equity capital of the Financial Corporation.”;

(b) in sub-section (5), for the words “Development Bank”, the words “Small Industries Bank” shall be substituted.

5. In section 4A of the principal Act,—

(a) for the words “Development Bank”, wherever they occur, the words “Small Industries Bank” shall be substituted;

(b) in sub-section (3), the words and figures “section 47 or” shall be omitted;

(c) in sub-section (5), for the words, brackets and figures “sub-section (1) of section 6”, the words, brackets and figures “sub-sections (1) to (4) of section 6” shall be substituted.

6. After section 4C of the principal Act, the following sections shall be inserted, namely:—

“4D. (1) On and after the commencement of the State Financial Corporations (Amendment) Act, 2000, the Financial Corporation may—

(a) issue redeemable preference shares on such terms and in such manner as the Board may decide; and

(b) convert, such number of equity shares as it may decide into redeemable preference shares, with the prior approval of the State Government and the Small Industries Bank, by a resolution passed in the general meeting of the shareholders:

Provided that such conversion shall in no case reduce the equity shares held by the parties referred to in clauses (a), (b) and (c) of sub-section (3) of section 4 to less than fifty-one per cent. of the issued equity capital of the Financial Corporation.

Amendment of section 4A.

Insertion of new sections 4D to 4H.

Issue of redeemable preference shares.

(2) The redeemable preference shares referred to in sub-section (1) shall—

(a) carry such fixed rate of dividend as the Financial Corporation may specify at the time of such issue or conversion; and

(b) neither be transferable nor carry any voting rights.

(3) The redeemable preference shares referred to in sub-section (1) shall be redeemed by the Financial Corporation in such instalments and in such manner as the Board may determine.

Reduction of
share capital.

4E. (1) The Financial Corporation, with the prior approval of the State Government and the Small Industries Bank, may, by resolution passed in a general meeting of the shareholders, reduce its share capital in any way.

(2) Without prejudice to the generality of the foregoing power, the share capital may be reduced by—

(a) extinguishing or reducing the liability on any of its equity shares in respect of share capital not paid-up; or

(b) either with or without extinguishing or reducing liability on any of its equity shares, cancelling any paid-up share capital which is lost or is unrepresented by available assets; or

(c) either with or without extinguishing or reducing liability on any of its equity shares, paying off any paid-up share capital which is in excess of the wants of the Financial Corporation.

Restriction on
exercising of
voting right.

4F. Every shareholder of the Financial Corporation holding equity shares shall have a right to vote in respect of such shares on every resolution and his voting right on a poll shall be in proportion to his share of the paid-up equity capital of the Financial Corporation:

Provided, however, that no shareholder, other than a shareholder referred to in clauses (a), (b) and (c) of sub-section (3) of section 4, shall be entitled to exercise voting rights in respect of any equity share held by him in excess of ten per cent. of the issued equity capital.

Proxy voting.

4G. In a general meeting referred to in clause (b) of sub-section (1) of section 4D and sub-section (1) of section 4E, the resolution for conversion or reduction of share capital shall be passed by shareholders entitled to vote, voting in person, or, where proxies are allowed, by proxy, and the votes cast in favour of the resolution are not less than three times the number of votes, if any, cast against the resolution by shareholders so entitled and voting.

Transfer of
share capital to
Small Industries
Bank.

4H. On such date as the Central Government may, by notification in the Official Gazette, notify (hereinafter referred to as the notified date) all the shares of every Financial Corporation subscribed by the Development Bank and the amount outstanding in respect of loans in lieu of capital provided by the Development Bank as on the date immediately preceding the notified date, shall stand transferred to, and vested in, the Small Industries Bank, such transfer shall be at such rate and be paid in cash or such other manner as may be mutually agreed upon between the Development Bank and the Small Industries Bank.”.

Substitution of
new sections
for sections 5 to
10.

7. For sections 5 to 10 of the principal Act, the following sections shall be substituted, namely:—

Transfer of
shares.

‘5. (1) Save as otherwise provided in sub-section (2), the shares of the Financial Corporation shall be freely transferable.

(2) Nothing contained in sub-section (1) shall entitle the parties referred to in clauses (a), (b) and (c) of sub-section (3) of section 4 to transfer any of the shares

held by them in the Financial Corporation if such transfer will result in reducing the aggregate value of shares held by them to less than fifty-one per cent. of the issued equity capital of the Financial Corporation.

(3) The Board may refuse to register the transfer of any shares in the name of the transferee on any one or more of the following grounds, and on no other ground, namely:—

(a) the transfer of the shares is in contravention of the provisions of the Act or regulations made thereunder or any other law;

(b) the transfer of the shares, in the opinion of the Board, is prejudicial to the interests of the Financial Corporation or to the public interest;

(c) the transfer of shares is prohibited by an order of a court, tribunal or any other authority under any law for the time being in force.

(4) The Board shall, before the expiry of two months from the date on which the instrument of transfer of shares of the Financial Corporation is lodged with it for the purpose of registration of such transfer, not only form, in good faith, its opinion as to whether such registration ought not or ought to be refused on any of the grounds referred to in sub-section (3) but also,—

(a) if it has formed the opinion that such registration ought not to be so refused, effect such registration; and

(b) if it has formed the opinion that such registration ought to be refused on any of the grounds mentioned in sub-section (3), intimate the transferor and the transferee by notice in writing.

(5) An appeal against the order of refusal of the Board under sub-section (4) shall lie to the Central Government and the procedure for filing and hearing of such appeal shall be in accordance with the rules made by the Central Government in this behalf.

6. (1) On the commencement of the State Financial Corporations (Amendment) Act, 2000, every shareholder shall be given by the Financial Corporation an option to require the Financial Corporation to convert the shares held by him into shares of the same nominal value without the State Government guarantee and issue fresh share certificate or to pay the amount paid in respect of such shares not exceeding the face value of the shares held by him.

Conversion of
shares guaran-
teed by State
Government

(2) The option referred to in sub-section (1) shall be given by the Financial Corporation to every existing shareholder before the expiry of three months from the commencement of the State Financial Corporations (Amendment) Act, 2000 and shall be exercised by the shareholder within three months from the date of receipt of such option.

(3) The option exercised under sub-section (2) shall be final and shall not be altered or rescinded after it has been exercised.

(4) If, a shareholder exercise option for receiving the payment within the stipulated time, the Financial Corporation shall on surrender of the share certificate held by him pay him the amount paid in respect of such shares not exceeding the face value thereof:

Provided that if any shareholder fails to exercise the option given to him under sub-section (1), within the time stipulated in sub-section (2), he shall be deemed to have exercised the first option.

(5) Nothing contained in sub-section (4) shall be deemed to result in reduction of the share capital and the Financial Corporation may, subject to the provisions of sub-section (3) of section 4, allot the shares surrendered by any shareholder, to any other person.

(6) The Financial Corporation shall keep at its head office a register, in one or more books, of shareholders and shall enter therein the following particulars so far as they may be available, namely:—

(i) the names, addresses and occupations, if any, of the shareholders and a statement of the shares held by each shareholder, distinguishing each share by its denoting number;

(ii) the date on which each person is so entered as a shareholder;

(iii) the date on which any person ceases to be a shareholder; and

(iv) such other particulars as may be prescribed:

~~Provided that nothing in this sub-section shall apply to the shares held with a depository under the Depositories Act, 1996.~~

22 of 1996.

(7) Notwithstanding anything contained in sub-section (6), it shall be lawful for the Financial Corporation to keep the register of the shareholders in computer floppies or diskettes, compact disk or any other electronic form subject to such safeguards as may be prescribed.

(8) Notwithstanding anything contained in the Indian Evidence Act, 1872; a copy of, or extract from, the register of shareholders, certified to be a true copy under the hand of an officer of the Financial Corporation authorised in this behalf, shall, in all legal proceedings, be admissible in evidence.

1 of 1872.

(9) The register of beneficial owners maintained by a depository under section 11 of the Depositories Act, 1996 shall be deemed to be a register of shareholders for the purposes of this Act.

22 of 1996.

(10) Notwithstanding anything contained in sub-sections (6), (7) and (8), no notice of any trust, express, implied or constructive, shall be entered on the register of shareholders or be receivable by the Financial Corporation:

Provided that nothing in this sub-section shall apply to a depository in respect of shares held by it as a registered owner on behalf of a beneficial owner.

Explanation.—For the purposes of sub-sections (6), (9) and this sub-section, the expressions “beneficial owner”, “depository” and “registered owner” shall have the meanings respectively assigned to them in clauses (a), (e) and (j) of sub-section (1) of section 2 of the Depositories Act, 1996.

22 of 1996.

(11) Notwithstanding anything contained in the Indian Trusts Act, 1882, the shares of the Financial Corporation shall be deemed to be included among the securities enumerated in section 20 of that Act.

2 of 1882.

7. (1) The Financial Corporation may issue and sell bonds and debentures for the purpose of increasing its working capital.

(2) The State Government may, on a request being made to it by the Financial Corporation, guarantee the bonds and debentures issued by the Financial Corporation as to the repayment of principal and the payment of interest at such rate as may be fixed by that Government.

(3) Notwithstanding anything contained in the Acts hereinafter mentioned in this sub-section, such of the bonds and debentures issued by the Financial Corporation as are guaranteed by the State Government as to the repayment of the principal and payment of interest and receipts issued by it for such of deposits as are guaranteed by the State Government as to the repayment of the principal and payment of interest shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882 and also to be approved securities for the purpose of the Insurance Act, 1938 and the Banking Regulation Act, 1949.

2 of 1882
4 of 1938.
10 of 1949

(4) The Financial Corporation may, for the purposes of carrying out its functions under this Act, borrow money from the Reserve Bank—

Additional
capital of
Financial
Corporation
and its
borrowing
powers.

(a) repayable on demand or on the expiry of a fixed period not exceeding ninety days from the date on which the money is so borrowed against the security of—

(i) stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India, or

(ii) such bills of exchange and promissory notes as are eligible for purchase or re-discount by the Reserve Bank or as are fully guaranteed as to the repayment of the principal and payment of interest by a State Government;

(b) repayable on the expiry of a fixed period not exceeding eighteen months from the date on which the money is so borrowed, against securities of the Central Government or of any State Government of the maturity, or subject to the previous approval of the State Government, against bonds and debentures issued by the Financial Corporation and maturing within a period not exceeding eighteen months from the date on which the money is so borrowed and every such bond and debenture shall be guaranteed by the State Government:

Provided that the amount borrowed by the Financial Corporation under clause (b) shall not at any time exceed in the aggregate twice the paid-up share capital thereof.

(5) The Financial Corporation may, for the purpose of carrying out its functions under this Act, borrow money from the State Government, any financial institution, scheduled bank, insurance company or any other person approved by the Board on such terms and conditions as may be agreed upon.

(6) The total amount of bonds and debentures issued and outstanding, the amounts borrowed by the Financial Corporation under clause (b) of sub-section (4) and sub-section (5) and of the contingent liabilities of the Financial Corporation in the form of guarantees given by it or underwriting agreements entered into by it, shall not exceed ten times the amount of the paid-up share capital and reserve fund of the Financial Corporation:

Provided that the Financial Corporation may, with the prior approval of the Small Industries Bank, exceed the aforesaid limit up to thirty times the amount of the paid-up share capital and reserve fund of the Financial Corporation.

8. (1) The Financial Corporation may accept from the State Government, or with the prior approval of the Reserve Bank, from a local authority or any other person deposits repayable after the expiry of a period which shall not be less than twelve months from the date of the making of the deposit and on such other terms as the Board thinks fit:

Deposits with
the Financial
Corporation.

Provided that the total amount of such deposits shall not exceed twice the paid-up share capital of the Financial Corporation:

Provided further that the State Government may permit the Financial Corporation to accept deposits up to a higher limit not exceeding ten times the paid-up share capital of the Financial Corporation.

(2) Any deposit accepted under sub-section (1), other than a deposit from the State Government may, if so required by the Financial Corporation, be guaranteed by the State Government as to the repayment of the principal and payment of interest.

9. (1) The general superintendence, direction and management of affairs and business of the Financial Corporation shall vest in a Board of directors which may

Management.

exercise all powers and do all such acts and things, as may be exercised or done by the Financial Corporation and are not by this Act expressly directed or required to be done by the Financial Corporation in general meeting.

(2) The Board may direct that any power exercisable by it under this Act shall also be exercisable in such cases and subject to such conditions, if any, as may be specified by it, by the chairman, managing director or the whole-time director.

Board of directors

10. The Board of directors shall consist of the following, namely:—

(a) a director to be nominated as chairman under sub-section (1) of section 15;

(b) two directors nominated by the State Government of whom one director shall be a person who has special knowledge of or experience in small-scale industries:

Provided that in the case of a Joint Financial Corporation, the number of directors shall be such as the State Governments of the participating States may, by agreement among themselves, think fit to nominate each participating State Government nominating not more than two directors:

Provided further that in the case of a Joint Financial Corporation, the director, who shall have special knowledge of, or experience in, small-scale industries, shall be nominated by that participating State which, according to the terms of agreement between the participating States, is entitled to make such nomination.

(c) two directors nominated by the Small Industries Bank;

(d) two directors nominated in the prescribed manner by the parties mentioned in clause (c) of sub-section (3) of section 4;

(e) such number of directors elected, in the prescribed manner, by shareholders, other than those mentioned in clauses (a), (b) and (c) of sub-section (3) of section 4, whose names are entered on the register of shareholders of the Financial Corporation, ninety days before the date of the meeting in which such election takes place on the following basis, namely:—

(i) where the total amount of issued equity share capital held by such shareholders is ten per cent. or less of the total issued equity capital, two directors;

(ii) where the total amount of issued equity share capital held by such shareholders is more than ten per cent. but less than twenty-five per cent. of total issued equity capital, three directors;

(iii) where the total amount of issued equity share capital held by such shareholders is twenty-five per cent. or more of total issued equity capital, four directors; and

(iv) where the total amount of issued equity share capital held by equity shareholders referred to in this clause does not permit election of all the four directors, the Board shall co-opt such number of directors as is required to make up the said number who shall retire in equal number on the assumption of charge by the elected directors in the order of their co-option;

(f) a managing director appointed in accordance with the provisions of sub-section (1) of section 17:

Provided that on the first constitution of the Board, the directors referred to in clause (d) shall be nominated by the State Government and directors so nominated shall, for the purpose of this Act, be deemed to be elected directors:

Provided further that all the directors of the Board first constituted, other than the managing director, shall retire at the end of the first year.

8. Section 10A of the principal Act shall be omitted.

Omission of section 10A.

9. For sections 11 and 12 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 11 and 12.

"11. (1) A nominated director shall hold office during the pleasure of the authority nominating him.

Term of office and retirement of directors.

(2) Subject to the provisions of sub-section (1), a nominated director shall hold office for such term not exceeding three years and shall also be eligible for re-nomination:

Provided that no such director shall hold office continuously for a period exceeding six years.

(3) An elected director other than a director deemed to be elected under the first proviso to clause (d) of section 10 shall hold office for three years and shall also be eligible for re-election:

Provided that no such director shall hold office continuously for a period exceeding six years.

12. No person shall be a director, if he—

Disqualifications for being a director.

(a) has been found to be of unsound mind by a court of competent jurisdiction and the finding is in force; or

(b) is or at any time has been, adjudicated as insolvent or has suspended payment of his debts or has compounded with his creditors; or

(c) has been convicted by a court of any offence involving moral turpitude and sentenced in respect thereof to imprisonment of not less than six months and a period of five years has not elapsed from the date of expiry of the sentence; or

(d) is elected by the persons referred to in clause (d) of sub-section (3) of section 4 but not registered as shareholder in his own right of unencumbered shares of a nominal value of not less than ten thousand rupees in the Financial Corporation; or

(e) has not paid any call in respect of shares of the Financial Corporation held by him, whether alone or jointly with others, and six months have elapsed from the last day fixed for the payment of the call."

10. Section 13 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section as so re-numbered, the following sub-section shall be inserted, namely:—

Amendment of section 13.

"(2) The shareholders, other than those mentioned in clauses (a), (b) and (c) of sub-section (3) of section 4, whose names are entered on the register of shareholders, may, after giving to the director a reasonable opportunity of being heard in the manner as may be prescribed, by resolution passed by majority of the votes of such shareholders holding in the aggregate not less than one-half of the total issued equity share capital held by all such shareholders, remove any director elected under clause (d) of section 10 and elect in his place another person to fill the vacancy so caused."

11. In section 14 of the principal Act, for sub-sections (1) and (1A), the following sub-section shall be substituted, namely:—

Amendment of section 14.

"(1) Any director elected under clause (d) of section 10 may, by giving notice in writing to the Chairman of the Board, resign from his office and on such resignation being accepted, shall be deemed to have vacated his office."

12. For section 15 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 15.

Chairman of
Board.

“15. (1) The Small Industries Bank shall, in consultation with the State Government nominate a director as a Chairman of the Board for such period not exceeding three years and on such terms and conditions as the Small Industries Bank may specify:

Provided that the Chairman shall not be a whole-time director unless he is also appointed to function as the managing director:

Provided further that the Chairman shall so long as he remains a director be eligible for re-appointment as Chairman.

(2) The Chairman shall preside over the meetings of the Board and the general meetings of the Financial Corporation.”.

Amendment of
section 17.

13. In section 17 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The managing director shall—

(a) be appointed, in consultation with the Small Industries Bank, by the State Government;

(b) be a whole-time officer of the Financial Corporation;

(c) perform such duties as the Board, by regulations, entrust or delegate to him;

(d) hold office for such term not exceeding three years as the State Government may specify and shall be eligible for re-appointment;

(e) receive such salary and allowances and be subject to other terms and conditions of service as the Board may, with the previous approval of the State Government, determine.”;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Notwithstanding anything contained in sub-section (1), the State Government, with prior consultation of the Small Industries Bank, shall have the right to terminate the term of office of the managing director at any time, before the expiry of the term specified under clause (d) of sub-section (1) by giving him notice of not less than three months in writing or three months salary and allowances in lieu of such notice and the managing director shall also have right to relinquish his office at any time before the expiry of term specified under clause (d) of sub-section (1) by giving to the State Government notice of not less than three months in writing.”.

Substitution of
new section for
section 18.

14. For section 18 of the principal Act, the following section shall be substituted, namely:—

Executive
Committee.

“18. (1) The Board shall constitute an Executive Committee consisting of the chairman and managing director, the whole-time directors and such other directors as it may deem fit:

Provided that in the case of a Joint Financial Corporation, if the directors nominated under clause (b) of section 10 represent different State Governments then, all of them shall be members of the Executive Committee.

(2) The Executive Committee shall discharge such functions as may be prescribed or as may be delegated to it by the Board.

(3) The Board may constitute such other committees whether consisting wholly of directors or wholly of other persons or partly of directors and partly of other persons for such purpose or purposes as it may think fit.

Amendment of
section 19
Amendment of
section 23

15. In section 19 of the principal Act, sub-sections (3A) and (4) shall be omitted.

16. In section 23 of the principal Act, the proviso shall be omitted.

17. In section 25 of the principal Act,—

Amendment
of section 25.

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) The Financial Corporation may, subject to the provisions of this Act, carry on and transact any of the following kinds of business, namely:—

(a) guaranteeing, on such terms and conditions as may be agreed upon,—

(i) loans raised by industrial concerns which are repayable within a period not exceeding twenty years, and are floated in the public market;

(ii) loans raised by industrial concerns from scheduled banks or State co-operative banks or other financial institutions;

(b) guaranteeing, on such terms and conditions as may be agreed upon, deferred payments due from any industrial concern in connection with its purchase of capital goods within India;

(c) underwriting of the issue of stock, shares, bonds or debentures by industrial concerns;

(d) transferring for consideration any instruments relating to loans and advances granted by it to industrial concerns;

(e) acting as agent of the Central Government or the State Government or the Development Bank or the Small Industries Bank or the IFCI Limited formed and registered under the Companies Act, 1956 or any other financial institution notified in this behalf by the Central Government in respect of any matter connected with, or arising out of, the grant of loans or advances to an industrial concern, or subscription to debentures of an industrial concern or relating to the business of the Development Bank, Small Industries Bank, IFCI Limited or financial institution;

(f) subscribing to, or purchasing of, the stock, shares, bonds or debentures of an industrial concern or any other concern;

(g) retaining as part of its assets any stock, shares, bonds or debentures which it may acquire by subscription or in fulfilment of its underwriting liabilities and disposing of the stock, shares, bonds or debentures so acquired;

(h) granting loans or advances to, or subscribing to debentures of, an industrial concern, repayable within a period not exceeding twenty years from the date on which they are granted or subscribed to, as the case may be;

Provided that the Financial Corporation may, with the prior approval of the Small Industries Bank, exceed the said limit of twenty years up to a further period of ten years:

Provided further that nothing contained in this clause shall be deemed to preclude the Financial Corporation from granting loans or advances to, or subscribing to debentures of, and industrial concern to which may be attached an option to convert such debentures or loans into stock or shares of the industrial concern:

Provided also that the Financial Corporation may, in the exercise of such option, convert the amounts outstanding on such debentures or

loans into stock or shares of the industrial concern if such concern increases its subscribed capital by the issue of further stock or shares in accordance with and subject to, the provisions of section 81 of the Companies Act, 1956.

1 of 1956.

Explanation.—In this clause, the expression "the amounts outstanding on such debentures or loans" shall mean the principal, interest and other charges payable on such debentures or loans as at the time when the amounts are sought to be converted into stock or shares;

(i) accepting or discounting promissory notes and bills of exchange made, drawn, accepted or endorsed by industrial concerns or by any person selling capital goods manufactured by one industrial concern to another industrial concern;

(j) undertaking research and surveys for evaluating or dealing with marketing or investments or undertaking and carrying on technoeconomic studies or other activities in connection with the development of any industry;

(k) providing technical and administrative assistance to any industrial concern or any person for the promotion, management or expansion of any industry;

(l) planning and assisting in the promotion and development of industries;

(m) providing consultancy and merchant banking services;

(n) acting as the trustee for the holders of debentures or other securities;

(o) leasing, sub-leasing or giving on hire or hire-purchase of industrial plant, equipment, machinery or any other asset;

(p) factoring;

(q) providing export related credit and services;

(r) undertaking money market related activities;

(s) setting up of mutual funds and undertaking asset management activity;

(t) promoting, forming or conducting or assisting in the promotion, formation, or conduct of companies, subsidiaries, societies, trusts or such other associations of persons as it may deem fit;

(u) opening or confirming or endorsing letters of credit and negotiating or collecting bills and other documents drawn thereunder;

(v) doing such other business as the Small Industries Bank may authorise, and or generally the doing of such acts and things as may be incidental to or consequential upon, the exercise of its powers or the discharge of its duties under this Act.

(2) The Financial Corporation may receive, in consideration of any of the services mentioned in sub-section (1), such commission, brokerage, interest, remuneration or fee as may be agreed upon.”;

(b) in sub-section (3), for the words “Development Bank”, the words “Small Industries Bank” shall be substituted.

Insertion of
new section
25B.

18. After section 25A of the principal Act, the following section shall be inserted, namely:—

"25B. The Financial Corporation may receive gifts, grants, donations or benefactions from Government or any other source."

Gifts, grants, etc.

19. For section 26 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 26.

"26. On and from the commencement of the State Financial Corporations (Amendment) Act, 2000, the Financial Corporation shall not enter into any arrangements under clause (a), (d) or (h) of sub-section (1) of section 25 with any industrial concern so that the total amount outstanding against that concern in respect of all such arrangements together with the amount of the face value of the shares and stocks of that concern whether subscribed or agreed to be subscribed and the outstanding liabilities on account of underwriting agreements and the deferred payments guarantees is more than—

Limit of accommodation.

(i) five hundred lakhs of rupees in the case of a corporation established by or under any other law or a company as defined in section 3 of the Companies Act, 1956 or a co-operative society registered under the Co-operative Societies Act, 1912 or any other law relating to co-operative societies for the time being in force; and

1 of 1956.
2 of 1912.

(ii) two hundred lakhs of rupees in any other case:

Provided that the Financial Corporation may, with the prior approval of the Small Industries Bank, exceed the limit under clause (i) or clause (ii) up to four times."

20. In section 28 of the principal Act, in sub-section (1), for clause (d), the following clause shall be substituted, namely:—

Amendment of section 28.

"(d) grant any form of assistance to any industrial concern in respect of which the aggregate of the paid-up share capital and free reserves exceeds ten crores of rupees or such higher amount not exceeding thirty crores of rupees as the State Government, on the recommendation of the Small Industries Bank, may, by notification in the Official Gazette, specify."

21. For section 34 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 34.

"34. The Financial Corporation may invest its funds in accordance with applicable guidelines and prudential norms as may be prescribed and in such securities as the Board may decide from time to time."

Investment of funds.

22. In section 35 of the principal Act, in sub-section (2), the proviso shall be omitted.

Amendment of section 35.

23. For section 35A of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 35A.

"35A. (1) The Financial Corporation may establish a special reserve fund, to which shall be transferred such portion of the dividends accruing to the State Government, Development Bank and the Small Industries Bank on the shares of the Financial Corporation as may be fixed by agreement between the State Government, Development Bank and the Small Industries Bank:

Special reserve fund.

Provided that after the notified date this sub-section shall have effect as if for the words "the State Government, the Development Bank and the Small Industries Bank", the words "the State Government and the Small Industries Bank" have been substituted except as regards all dividends accruing in respect of any completed accounting period prior to the notified date.

(2) No shareholder of the Financial Corporation, other than the State Government or the Small Industries Bank, shall have any claim to the special reserve fund.

(3) The amount standing to the credit of the special reserve fund may be utilised by the Financial Corporation for only such purposes as are approved by the State Government and the Small Industries Bank.”.

Amendment of
section 36.

24. In section 36 of the principal Act, for sub-section (2) the following sub-sections shall be substituted, namely:—

“(2) The shareholders present at the annual general meeting shall be entitled to discuss and adopt—

(a) the balance-sheet and profit and loss account of the Financial Corporation made up to the date on which its accounts are closed and balanced;

(b) the report of working of the Financial Corporation for the period covered by the accounts;

(c) the auditor’s report on the balance-sheet and accounts; and

(d) proposals for declaration of dividend and capitalisation of reserves.

(3) The shareholders present at an annual general meeting may also discuss any other matter to be transacted at such meetings in accordance with the provisions of this Act.”.

Amendment of
section 37.

25. In section 37 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The accounts of the Financial Corporation shall be audited by auditors duly qualified to act as the auditors under sub-section (1) of section 226 of the Companies Act, 1956, who shall be appointed by the Financial Corporation in general meeting of shareholders out of the panel of auditors approved by the Reserve Bank of India for such terms and on such remuneration as the Reserve Bank may fix.”;

1 of 1956.

(b) in sub-section (6), the proviso shall be omitted.

Amendment of
section 37A.

26. In section 37A of the principal Act, for the words “Development Bank”, wherever they occur, the words “Small Industries Bank” shall be substituted.

Amendment of
section 38.

27. In section 38 of the principal Act, for the words “Development Bank”, wherever they occur, the words “Small Industries Bank” shall be substituted.

Amendment of
section 39.

28. In section 39 of the principal Act,—

(a) in sub-section (1), for the words “Development Bank”, the words “Small Industries Bank” shall be substituted;

(b) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(2A) Nothing contained in sub-section (1) and sub-section (2) shall apply in a case where a State Government holds less than fifty-one per cent. of the equity shares in the Financial Corporation.

(2B) Notwithstanding the equity share holding of a Financial Corporation by a State Government, the State Government may advise the Financial Corporations on the matters of policy.”.

Amendment of
section 40.

29. In section 40 of the principal Act, in sub-section (2), in clause (b), for the words “State co-operative Bank or the Development Bank”, the words “State co-operative Bank, the Small Industries Bank or the Development Bank” shall be substituted.

30. After section 41A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 41B.

“41B. (1) Notwithstanding anything contained in any other law for the time being in force, where a nomination in respect of any deposits, bonds or other securities is made in the prescribed manner, the amount due on such deposits, bonds or securities shall, on the death of the depositor or holder thereof, vest in, and be payable to, the nominee subject to any right, title or interest of any other person to such deposits, bonds or securities.

Nomination in respect of deposits, bonds, etc.

(2) Any payment by the Financial Corporation in accordance with the provisions of sub-section (1) shall constitute a full discharge to the Financial Corporation of its liability in respect of such deposits, bonds or securities.”

31. In section 43 of the principal Act, in the first proviso, the words and figure “section 6 or” shall be omitted.

Amendment of section 43.

32. In section 43B of the principal Act, sub-section (2) shall be omitted.

Amendment of section 43B.

33. In section 46A of the principal Act, in sub-section (1), for the words “Development Bank”, the words “Small Industries Bank” shall be substituted.

Amendment of section 46A

34. Section 47 of the principal Act shall be omitted.

Omission of section 47.

35. In section 48 of the principal Act,—

Amendment of section 48.

(i) in sub-section (1), for the words “Development Bank”, the words “Small Industries Bank” shall be substituted;

(ii) in sub-section (2),—

(a) after clause (c), the following clauses shall be inserted, namely:—

“(ca) the maintenance of register of shareholders, particulars to be entered in such register, the safeguards to be observed in the maintenance of register of shareholders on computer floppies or diskettes, compact disk or any other electronic form the inspection and closure of the register of shareholders and all other matters connected therewith under section 6;

(cb) the manner of nomination of directors under clause (d) of section 10;

(cc) the entrusting or delegation of duties to the managing director by the Board under clause (c) of sub-section (1) of section 17;

(cd) the functions of Executive Committee under sub-section (2) of section 18;

(ce) the guidelines and prudential norms in accordance with which investment may be made under section 34;

(cf) the manner in which nomination may be made under section 41B; and

(cg) the investments (whether by way of deposits in bank or otherwise) of the amounts which are not for the time being required for transaction of business.”

(b) after clause (n), the following clauses shall be inserted, namely:—

“(o) the form and manner in which the balance-sheet and the accounts of the Financial Corporation shall be prepared;

(p) any other matter which is to be, or may be, prescribed.”

Amendment of
section 48A.

36. In section 48A of the principal Act, the words “Every rule made under section 47 and” shall be omitted.

Insertion of new
section 48B.

37. After section 48A of the principal Act, the following section shall be inserted, namely:—

Power to make
rules.

“48B. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power such rules may provide for the procedure for filing and hearing of appeals under sub-section (5) of section 5.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

STATEMENT OF OBJECTS AND REASONS

The State Financial Corporations Act, 1951 was enacted to provide for the establishment of State Financial Corporations to create institutional framework for financing medium and small scale industries. The activities, coverage and overall performance of the State Financial Corporations have expanded considerably over the years throwing up several challenges in respect of organisation, management, resource mobilisation, operational efficiency and overall financial resources. With the introduction of economic reforms, the business environment for all players in the system including the State Financial Corporations is becoming increasingly competitive. To enable the State Financial Corporations to equip themselves to the emerging environment, it was considered necessary to enlarge their shareholder base, provide them with greater functional autonomy and operational flexibility. Therefore, it is proposed to make comprehensive amendments to the State Financial Corporations Act, 1951.

2. The main features of the proposed amendments are as follows:—

(a) the share capital held by Industrial Development Bank of India in the State Financial Corporations is proposed to be transferred to Small Industries Development Bank of India;

(b) the definition of the term "industrial concern" is proposed to be enlarged in order to enable the State Financial Corporations to finance additional or new activities;

(c) capital restructuring of the State Financial Corporations is proposed with a view to increase the authorised share capital, enlarge shareholder base, permit issue of share capital up to forty-nine per cent. to the public and also allow the Financial Corporations to reduce or convert the existing share capital;

(d) restrictions on issue or sale of bonds, debentures and borrowing money by the State Financial Corporations are being removed;

(e) restructuring of the Board of Directors and Executive Committee is proposed in order to enable the State Financial Corporations to exercise greater functional autonomy and operational flexibility;

(f) the ceiling on the amount of assistance which may be granted by the State Financial Corporations to an industrial concern is proposed to be increased;

(g) autonomy to the State Financial Corporations with regard to investment of funds is proposed to be given;

(h) the general body of shareholders of the State Financial Corporations is proposed to be vested with more powers; and

(i) the State Governments shall be empowered to issue guidelines on question of policy to the State Financial Corporations so long as they hold not less than fifty-one per cent. of the issued equity share capital. In other cases, the State Governments may advise the Financial Corporations on the matters of policy.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 25th July, 2000.

YASHWANT SINHA.

Noies on clauses

Clause 2 seeks to amend section 2 of the State Financial Corporations Act, 1951 relating to definitions. It is proposed to amend clause (c) so as to include therein medical, health or allied services, software or hardware services relating to information technology, telecommunication or electronic, satellite linkage and audio or visual cable communication, setting up of or development of tourism related facilities including amusement parks, convention centres, restaurants, travel and transport (including those at airports), tourist service agencies and guidance and counselling services to the tourists, construction, development, maintenance and consiruction of roads, providing commercial complex facilities and community centres including conference halls, floriculture, tissue culture, fish culture, poultry farming, breeding and hatcheries, service industry engaged in altering, ornamenting, polishing, finishing, oiling, washing, cleaning or otherwise treating or adopting any article or substance with a view to its use, sale, transport, delivery or disposal, research and development of any concept, technology, design, process or product whether in relation to any of the matters aforesaid including any activities approved by the Small Industries Bank or such other activity as may be approved by Small Industries Bank.

Clause 3 proposes to amend section 3A relating to establishment of Joint Financial Corporations. Section 3A provides that two or more States may, after consultation with the Development Bank, enter into an agreement for providing that there will be one Financial Corporation for the group of States participating in the agreement. It is proposed to substitute the expression "Small Industries Bank" for the expression "Development Bank" so as to provide that the Small Industries Bank will be consulted instead of Development Bank for the purpose of said agreement.

Clause 4 proposes to amend section 4 of the Act relating to share capital and shareholders. It is proposed to substitute sub-sections (1), (2) and (3) of the said section to provide that the authorised capital of the financial corporation shall be such sum as may be fixed by the State Government but the authorised capital shall not be less than fifty lakhs of rupees or exceed five hundred crores of rupees. It is proposed to confer power upon the State Government which may, on the recommendation of the Small Industries Bank, increase the authorised capital up to one thousand crores of rupees. It is also proposed that the authorised capital of the State Financial Corporation shall be divided into such number of fully paid-up shares of the same face value and fully paid-up redeemable preference shares of the same face value and shall be issued to the State Government, the Small Industries Bank, public sector banks, the Life Insurance Corporation of India, other Insurance Companies or other institutions owned or controlled by the Central Government or the State Government as the case may be and to the parties other than those referred to above. Further a number of shares which may be allotted to the parties except that State Government, Small Industries Bank, public sector banks shall in no case exceed forty-nine per cent. It is also proposed to confer power upon the Board of the Financial Corporation to determine, after approval of the State Government and the Small Industries Bank, the number of shares which may be distributed in the manner specified in the proposed sub-section (3) of section 4. It is also proposed to substitute expression "Small Industries Bank" for "Development Bank", in sub-section (5), so as to provide that unsubscribed shares referred to in the said sub-section shall be subscribed equally by the State Government and the Small Industries Bank instead of State Government and Development Bank.

Clause 5 seeks to amend section 4A of the Act relating to special class of shares. Section 4A contains provisions for division of shares in consultation with the Development Bank. Sub-section (3) confers power upon the Development Bank for use of funds representing the capital subscribed. It is proposed to confer these powers upon the Small

Industries Bank instead of Development Bank. The other amendments proposed in sub-section (5) are of consequential nature.

Clause 6 proposes to insert new sections 4D, 4E, 4F, 4G and 4H in the Act. The proposed section 4D contains provisions for issue of redeemable preference shares, conversion of equity shares into redeemable preference shares, rate of dividend on such shares, their transferability and voting rights, etc.

The proposed section 4E contains the condition for reduction of share capital and the procedure thereof.

The proposed section 4F contains provisions for restriction on exercising voting rights by the equity shareholders of the Financial Corporation.

The proposed section 4G contains provisions for proxy voting.

The proposed section 4H contains provisions for transfer of share capital subscribed by the Development Bank to the Small Industries Bank.

Clause 7 proposes to substitute sections 5 to 10 of the Act. It is proposed to substitute section 5 so as to provide restriction on transfer of shares. The shares of the Financial Corporation shall be freely transferable but the State Government, the Small Industries Bank, public sector banks and other institutions owned or controlled by Central or State Government shall not be entitled to transfer any of the shares which are held by them in the Financial Corporation if such transfer will result in the reduction of aggregate value of shares held by them to less than fifty-one per cent. of the issued share capital of the Financial Corporation.

It is also proposed to empower Board of Financial Corporation to refuse registration of shares in the circumstances mentioned therein and allow appeal against such refusal to the Central Government.

The proposed section 6 contains provisions for conversion of shares guaranteed by the State Government. It is proposed to provide option to every shareholder of the Financial Corporation to convert the shares held by them into shares of same nominal value without the State Government's guarantee and such shareholders shall be issued fresh share certificates or be paid the amount in respect of shares held by them for not exceeding the face value of such shares. The option shall be subject to the conditions referred to in that section.

It is also proposed that the Financial Corporation shall keep at its head office a register containing the particulars specified in sub-section (6) of the proposed section. The register of the shareholders be kept, in computer floppies or in diskettes or in compact disks or in any other electronic form subject to the safeguards to be specified in the rules made by the Central Government.

The proposed section 7 contains provisions relating to the additional capital of the Financial Corporation and its borrowing powers.

The proposed section 8 contains provisions relating to deposits with Financial Corporation.

It is proposed in section 8 to remove the existing restriction requiring the approval from the State Government and Development Bank for acceptance of deposits by Financial Corporations from persons other than State Government and empower the Board of Directors to exercise such powers.

The proposed section 9 of the Act contains provisions relating to management of Financial Corporation. It is proposed in section 9 to provide that the Board of directors shall exercise all powers and do all such acts and things as may be exercised or done by the Financial Corporation in regard to general superintendence, direction and management of affairs and business of Financial Corporation. The Board of the Financial Corporation may direct that any power exercisable under the Act shall also be exercisable by the Chairman, the Managing Director or whole-time director subject to such conditions as may be specified by the Board.

The proposed section 10 contains provisions relating to Board of directors.

It is proposed that the Board of directors of the Financial Corporation shall consist of twelve directors out of which two shall be nominated by the State Government, two by Small Industries Bank, two by other financial institutions, Life Insurance Corporation and public sector banks, etc., and a maximum of four to be elected by other shareholders and a Managing Director and a Chairman. If the percentage holding of the other shareholders does not permit election of all the four directors, the Board may co-opt directors as required to make up the number. The chairman shall be a director nominated by Small Industries Bank. The Managing director shall be appointed by the State Government.

Clause 8 proposes to omit section 10A of the Act relating to vacation of office by an elected director. The proposed amendment is of consequential nature.

Clause 9 proposes to substitute section 11 and section 12 of the Act. It is proposed to substitute section 11 by a new section relating to term of office and retirement of directors. The nominated directors shall hold office for such term not exceeding three years and shall be eligible for re-nomination. It is also proposed that an elected director other than a director deemed to be elected shall hold office for a period of three years and shall also be eligible for re-election. However, such directors shall not hold office continuously for a period exceeding six years.

Section 12 enlarges the scope of disqualification for being a director of Financial Corporation.

Clause 10 seeks to amend section 13 of the Act relating to removal of director from office. It is proposed to provide that the shareholders other than the State Government, the Small Industries Bank, the public sector banks, the Life Insurance Corporation of India, other insurance companies owned or controlled by the Central Government and other institutions owned or controlled by the Central Government or the State Government may remove any director elected under clause (d) of the proposed section 10 and elect in his place another person to fill the casual vacancy so caused in accordance with the procedure specified in that sub-section.

Clause 11 seeks to substitute sub-sections (I) and (IA) of section 14 by a new sub-section (I).

It is proposed to provide that director elected under clause (d) of section 10 may resign from his office by giving notice in writing to the Chairman of the Board and on such resignation being accepted, he shall be deemed to have vacated his office.

Clause 12 seeks to amend section 15 of the Act relating to Chairman of the Board. It is proposed that the Small Industries Bank in consultation with the State Government may nominate a director as Chairman of the Board for such a period not exceeding three years on such terms and conditions which may be specified by the Board. However, the Chairman shall not be a whole-time director unless he is also appointed to function as the Managing Director. It is further proposed that the Chairman shall so long as he remains as a director shall be eligible for re-appointment as Chairman. It is also proposed that the Chairman shall preside over the meetings of the Board and the general meeting of the Financial Corporation.

Clause 13 seeks to amend section 17 of the Act relating to Managing Director.

It is proposed that the Managing Director shall be appointed by the State Government in consultation with the Small Industries Bank. He shall be a whole-time officer of the Financial Corporation and hold office for such term not exceeding three years as the State Government may specify and shall be eligible for re-appointment. He shall receive such salary and allowances, subject to other terms and conditions of service, as the Board of the State Financial Corporation may with the previous approval of the State Government determine. The State Government shall have the right to terminate the term of the office of the Managing Director with prior consultation with the Small Industries Bank in accordance with the procedure specified in the proposed sub-section (3) of section 17.

Under the existing provisions contained in section 17, the Managing Director may undertake part-time honorary work subject to the conditions specified in the proviso to clause (a) of sub-section (1). It is proposed to omit the said proviso.

Clause 14 proposes to substitute section 18 of the Act relating to Executive Committee.

It is proposed that the Board of the State Financial Corporation shall constitute an Executive Committee which shall consist of the Chairman, the Managing Director and the other directors. In the case of a Joint Financial Corporation, the directors nominated under clause (a) of section 10 representing different State Governments shall be the members of the Executive Committee.

Clause 15 seeks to amend section 19 relating to the meetings of the Board.

Under the existing provisions contained in sub-sections (3A) and (4) the power has been conferred on a director nominated under clause (a) or clause (b) or clause (c) of section 10 who is unable to attend any meeting of the Board, State Government, the Reserve Bank or the Development Bank or as a Member of the Executive Committee or any other Committee, as the case may be, may depute any other person to attend the said meeting and such person shall be deemed to be a director nominated in the aforesaid clauses.

It is proposed to omit the said sub-sections (3A) and (4).

Clause 16 seeks to amend section 23 of the Act relating to officers and other employees of the Financial Corporation. Under the existing proviso in the said section, the State Government may, in consultation with and after obtaining advice of the Development Bank, specify the class or category of the posts in respect of which appointments may be made by the Board of the State Financial Corporation.

It is proposed to omit the said proviso.

Clause 17 seeks to amend section 25 of the Act relating to business which Financial Corporations may transact.

It is proposed to include more kinds of business which Financial Corporations may carry on and transact which shall include merchant banking and capital market service, leasing, factoring, export related credit and services.

It is also proposed to insert a new sub-section (2) so as to allow the Financial Corporation to receive commission, brokerage, interest, remuneration or fees in consideration of any of the services mentioned in sub-section (1).

Clause 18 seeks to insert a new section 25B relating to gifts, grants, etc.

It is proposed to allow the Financial Corporation to accept gifts, grants, donations, benefactions from Government or any other sources.

Clause 19 seeks to substitute section 26 of the Act relating to limit of accommodation.

Under the existing provisions contained in section 26 the maximum outstanding amount of the State Financial Corporation against an industrial concern cannot be more than rupees one hundred and fifty lakhs in case the industrial concern which is a corporation or a Co-operative society and rupees ninety lakhs in other cases. It is proposed to increase the above limit of rupees one hundred and fifty lakhs and ninety lakhs to rupees five hundred lakhs and rupees two hundred lakhs respectively.

Clause 20 seeks to amend section 28 relating to prohibited business.

Under the existing provisions contained under clause (d) of sub-section (1) of section 28, the Financial Corporation cannot grant any form of assistance to any industrial concern in respect of which the aggregate of the paid-up capital and free reserves exceeds three crores of rupees and such higher amount not exceeding rupees thirty crores as the State Government may by notification in the Official Gazette specify.

It is proposed to enhance the said limits to ten crores or such an higher amount not exceeding thirty crores as the State Government, on the recommendation of the Small Industries Bank, may by notification in the Official Gazette, specify.

Clause 21 seeks to substitute section 34 of the Act relating to investment of funds.

Under the existing provisions, the State Financial Corporation may invest its funds in the securities of the Central Government or of any State Government. It is proposed to substitute the section so as to enable the State Financial Corporation to invest its funds, in accordance with the applicable guidelines and prudential norms, as may be prescribed, and in such securities as the Board may decide from time to time.

Clause 22 seeks to amend section 35 of the Act relating to disposal of profits.

Under the existing provisions contained in sub-section (2), the State Financial Corporation may out of its annual profits, declare a dividend after making provisions for bad and doubtful debts, depreciation of assets and all other matters which are usually provided for by the banking companies. The proviso in sub-section (2) provides that the rate of such dividend shall not exceed the rate guaranteed by the Financial Corporation under section 6 in the circumstances specified in that proviso. It is proposed to omit the said proviso.

Clause 23 seeks to amend section 35A of the Act relating to special reserve fund.

Under the existing provisions the Financial Corporation may establish a special reserve fund to which such portion of the dividends, accruing to the State Governments, Development Bank and the Reserve Bank, shall be transferred to such fund as may be fixed by agreement between the State Government, Development Bank and the Reserve Bank.

It is proposed to transfer such portion of dividends accruing to the State Government, Development Bank and the Small Industries Bank instead of Reserve Bank. It is further proposed to provide that no shareholder of the Financial Corporation, other than the State Government or the Small Industries Bank, shall have any claim to such fund and the amount standing to the credit of such reserve fund may be utilised by the Financial Corporation only for such purposes as approved by the State Government and the Small Industries Bank.

Clause 24 seeks to amend section 36 of the Act relating to the general meetings.

It is proposed to confer more powers on the shareholders present at the annual general meeting to discuss the annual accounts, report of the Board and the working of the Corporation in the period covered by the accounts and the auditors' report. The proposals for declaration of dividends, capitalisation of reserves and any other matter may also be discussed at such meeting in accordance with the provisions of the Act.

Clause 25 seeks to amend section 37 of the Act relating to audit.

As per the existing provisions, the auditors shall be appointed by the State Government in consultation with the Comptroller and Auditor-General of India and the Financial Corporation shall pay to the auditors so appointed such remuneration as the State Government may fix. It is proposed to vest the power to appoint the auditors with the Financial Corporation in general meeting of shareholders out of the panel of auditors approved by the Reserve Bank of India on such terms and on such remuneration which may be fixed by the Reserve Bank.

Clause 26 proposes to amend section 37A of the Act relating to inspection.

As per the existing provisions the Development Bank, with the approval of the Central Government and on being directed so to do by that Government, shall cause an inspection of the working of any Financial Corporation of its books of accounts.

It is proposed to confer such power on the Small Industries Bank in place of Development Bank.

Clause 27 seeks to amend section 38 of the Act relating to returns.

Under the existing provisions, the Financial Corporation shall furnish to the State Government, the Development Bank and the Reserve Bank, such statements and returns as may be required from time to time. It is proposed to substitute "Small Industries Bank" in place of "Development Bank".

Clause 28 seeks to amend section 39 relating to power to give instructions to Financial Corporations on question of policy.

Under the existing provisions, the State Government has power to give instructions to Financial Corporation on question of policy in consultation with Development Bank. It is proposed to substitute "Small Industries Bank" for "Development Bank" in sub-section (1) of section 39. It is further proposed to insert two more sub-sections (2A) and (2B) to provide that the instructions by the State Government, being advisory in nature, may be given even if the share holding of the State Government falls below fifty-one per cent.

Clause 29 seeks to amend section 40 of the Act relating to the declaration of fidelity and secrecy. The proposed amendment adds the Small Industries Bank to the list of banks from whom Financial Corporations may collect or furnish such information or any other information as it may consider useful for the purpose in such manner and at such time as it may think fit.

Clause 30 provides for insertion of a new section 41B which provides for nomination facilities in respect of deposits, bonds or other securities issued by Financial Corporation in the manner specified therein.

Clause 31 seeks to amend section 43 of the Act relating to provisions relating to Income-tax and super-tax.

Under the existing provisions contained in the proviso to section 43, any sum paid by the State Government under guarantee given in pursuance of section 6 or section 7 or section 8 is not treated as income. In view of substitution of section 6 by a new section, it is proposed to omit reference of section 7 in the said proviso. The proposed amendment is consequential in nature.

Clause 32 seeks to amend section 43B of the Act relating to reports to the Board.

Under the existing provisions contained in sub-section (2), every action taken by the managing director or any other officer of the Financial Corporation shall, as soon as may be after it is taken by them, be reported to the Board. It is proposed to omit the said sub-section (2).

Clause 33 seeks to amend section 46A relating to extension of jurisdiction of the Financial Corporation to other States by agreement. Under the existing provision States can enter into agreement after consultation with the Development Bank for extension of jurisdiction of the Financial Corporation to other States. It is proposed to substitute "the Small Industries Bank" for "the Development Bank".

Clause 34 proposes to omit section 47 relating to power of State Government to make rules. The omission of this section is consequential in nature.

Clause 35 seeks to amend section 48 relating to power of the Board to make regulations.

Under the existing provisions, the Board can make regulations after consultation with Development Bank and with the previous sanction of the State Government. It is proposed to amend section 48 to provide that the Board shall make regulations after consultation with the Small Industries Bank instead of Development Bank and with the

previous sanction of the State Government. It is also proposed to confer powers upon the Board in respect of the form and manner in which balance-sheet and the accounts of the Financial Corporation shall be prepared; the maintenance of register of shareholders, particulars to be entered in such register, the safeguards to be observed in maintenance of register of shareholders on computer floppies and diskettes, compact disk or any other electronic form inspection and closure of the register of shareholders and all other matters connected therewith, the manner of nomination of directors under clause (d) of section 10, entrusting or delegation of duties to the managing director by the Board the functions of Executive Committee guidelines and prudential norms in accordance with which investment may be made under section 34 the manner in which nomination may be made in terms of section 41B; and the investments whether by way of deposits in bank or otherwise of the amounts which are not for the time being required for transaction of business of the Financial Corporation.

Clause 36 seeks to amend section 48A to omit "Every rule made under section 47 and" as section 47 is proposed to be omitted.

Clause 37 seeks to insert a new section 48B conferring power upon the Central Government to make rules for the procedure for filing and hearing of appeals under sub-section (5) of section 5 of the Act.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to amend section 4 of the State Financial Corporations Act, 1951 (hereafter referred to as the said Act). This clause provides for increase of the authorised capital of the Financial Corporations up to one thousand crores of rupees by notification in the Official Gazette on the recommendation of the Small Industries Bank by the State Government. It also provides for the determination of the manner of issue of shares by the State Government in the Official Gazette.

2. Clause 6 of the Bill seeks to insert five new sections in the said Act. The proposed new section provides for issue of notification by the Central Government to specify the date for transfer of the share capital from the Development Bank to the Small Industries Bank.

3. Clause 17 of the Bill seeks to amend section 25 of the said Act. This clause *inter alia* provides for the Financial Corporation to act as the agent of any other financial institution which shall be notified in this behalf by the Central Government.

4. Clause 20 of the Bill seeks to amend section 28 of the said Act. This clause provides that the Financial Corporation shall not grant any form of assistance to any industrial concern in which the aggregate paid-up share capital and free reserves exceed ten crores of rupees or such higher amount not exceeding thirty crores of rupees to be notified by the State Government in the Official Gazette on the recommendation of the Small Industries Bank.

5. Clause 35 seeks to amend section 48 of the said Act which empowers the Board, with the previous sanction of the State Government, to make regulations to carry out the provisions of the Act. The proposed matters in respect of which such regulations may be made relate, *inter alia* to the maintenance of register of shareholders, the safeguards to be observed in the maintenance of registers by computer floppies and diskettes, compact disk or any other electronic form the manner of nomination of directors under clause (d) of section 10, entrusting or delegation of duties to the managing director by the Board, the functions of the Executive Committee guidelines and prudential norms in accordance with which investment may be made under section 34 and the manner in which nomination may be made in terms of section 41B.

6. Clause 37 seeks to insert a new section 48B in the Act which empowers the Central Government to make rules for the procedure for filing and hearing of appeals under sub-section (5) of section 5.

7. All the above matters are matters of detail or procedure and it is not practicable to provide for them in the Bill itself. The delegation of legislative power involved is of a normal character.

G.C. MALHOTRA,
Secretary General.

